IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY NINTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE V.ESWARAIAH

WRIT PETITION NO : 21048 of 2004

Between:

1 Fishermen Cooperative Society, Share Mohammed pet, rep.by its President, Makkala Chinnebikshalu,Share Mohammed Pet, Jagaiahpet Mandal, Krishna District.
2 Pittala Narasimha Swamy, S/o.Kotaiah,
Secretary, FCS, Sharemohammedpet, Jaggaiahpet Mandal, Krishna District.
3 Kotakam Satyanarayana, S/o.Gopaiah,
4 Annapaka Pummaiah, S/o.Pullaiah,
5 Akam Babu Rao, S/o.Balaiah,
All are Residents of Sharemohammedpet, Jaggaiahpet Mandal, Krishna District.

..... PETITIONER(S)

AND

1. The Commission of Fisheries, Mastya Bhavan, Shanthinagar, Masab Tank, Hyderabad.
2 The Deputy Director of Fisheries, Machilipatnam, Krishna District., Vijayawada.
3 The Assistant Director of Fisheries, Vijayawada, Krishna District.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of writ of Mandamus declaring the order of the Deputy Director of Fisheries/Ex.officio Joint Registrar of Fishermen Cooperative society vide proc.No.1407/D/2004, dated 1-11-2004 (not served on the petitioner) as bad, arbitrary, contrary to the provisions of A.P.Cooperative Societies Act, 1964, apart from violation of principles of natural justice and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner:MS.M.VIDYAVATHI

Counsel for the Respondent No.1 to 3: GP FOR FISHERIES

The Court made the following :

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Order:-

The first petitioner is a Fishermen Co-operative Society represented by its President. The second petitioner is the Secretary and the petitioners 3,4 and 5 are the Directors of the said society. It is stated that election to the Office bearers of the first respondent - society was held on 20-07-2003 and the Society has been carrying on its affairs strictly by the elected body in accordance with the Co-Operative Society's Act and the rules made thereunder. It is stated that certain notices were issued previously to the Society. It is stated that basing on certain letters and the inspection report, the Deputy Director of Fisheries passed the impugned order dated 01-11-2004 in exercise of powers vested under Section 34 of A.P. Co-operative Societies Act,.1964 superceding the Managing Committee of the Fishermen Co-operative Society, Sharemohammedpet village of Jaggaiahpet Mandal, appointed the Assistant Disrector of Fisheries as Special Officer to manage the affairs of the Society. A perusal of the impugned order discloses that no show cause notice was issued before superceding the said committee. None of the earlier notices issued relates to Section 34 of A.P.C.S Act and it does not specify the particular cause as to why the Managing Committee of the Society has to be superceded. But the other notices pertain to certain expenses made by the Society and also repayment of dues by the society etc. and no notice was issued as contemplated under Section 34 of the Act. Therefore, I am of the opinion that the impugned order is illegal and violative of Section 34 of the Act and as no opportunity was given before superceding the Managing committee of the said society. When notices are issued and served on the members of the Managing committee of the petitioner society and if they fail to comply with the lawful order or directions issued by the authorities, then it is open for the second respondent to proceed to supercede the managing committee. But in the instant case I do not see any of the notices issued showing that the directions issued to the Managing Committee was disobeyed. It is also seen that no opportunity was given to the members of the Managing Committee to be heard before passing orders superceding the managing committee. Therefore, the impugned order is illegal and

against the principles of natural justice and liable to be set aside.

In the result, the writ petition is allowed by setting aside the impugned order. In the circumstances, there shall be no order as to costs.

Sd.

(Justice V.Eswaraiah)

March 29th, 2005

Tsvk.

To

1)The Commissioner of Fisheries, Mastya Bhavan, Shanthinagar, Masabtank,Hyderabad.

2)The Deputy Director of Fisheries, Machilipatnam,Krishna District, Vijayawada.

3)The Asst. Director of Fisheries, Vijayawada, Krishna district.

4) 2 CD copies

5) 1 CC to MR.PRABHAKAR RAO

6) 1 CC to MR.RAMA RAO